

**Notice of Allowability**

Application No.

09/725,438

Examiner

Ian N. Moore

Applicant(s)

DAS ET AL.

Art Unit

2616

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/10/2007.
2. ☒ The allowed claim(s) is/are 1-3, 6, 7, 11-13 which have been renumbered as 1-8.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>1/11/07</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>1/10/2007</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                    | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                   |
|   | 9. <input type="checkbox"/> Other _____.  |

## DETAILED ACTION

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eric Highman on January 11, 2007.

The application has been amended by canceling claims 4,5, 8-10 without prejudice or disclaimer, amending independent claims 1 and 11 by incorporating all claimed limitations recited in dependent claims 8-10, and amending dependent claim 12 to be consistent with claim 11 as follows:

1. **(Currently Amended)** A method of transmitting data comprising the steps of:  
receiving a plurality of rate indication messages indicating data rates for a plurality of receivers;  
selecting a first receiver from the plurality of receivers to which to transmit data using the received plurality of rate indication messages, wherein the selected first receiver is associated with a rate indication message indicating a highest data rate;  
determining a first data rate based on a measured first channel condition at [[a]] the first receiver to which data transmission is intended;  
performing a first data transmission at the first data rate;  
receiving [[a]] the rate indication message including a data rate based on a channel condition measurement at the first receiver;  
determining a second data rate based on the received rate indication message; and  
performing a second data transmission of the data at the second data rate, wherein the second data transmission is a re-transmission of the first data transmission.

2. (original) The method of claim 1, wherein the first and second data transmissions are identical.

3. (original) The method of claim 1, wherein the first data transmission may be soft combined with the second data transmission.

**4-5. (Cancelled)**

6. (original) The method of claim 1, wherein the first data rate is a higher data rate than a data rate indicated in a received rate indication message.

7. (original) The method of claim 1, wherein the second data rate is a higher data rate than a data rate indicated in a received rate indication message.

**8-10. (Cancelled)**

11. (Currently Amended) A method of receiving a data transmission comprising the steps of:

transmitting at a plurality of receivers a plurality of rate indication messages indicating [[the]] data rates for the plurality of receivers;

receiving at a first receiver a first data transmission at a first data rate, wherein the first data rate is determined using a measured first channel condition, and wherein the first receiver is a receiver selected from the plurality of receivers using the plurality of rate indication messages and the first receiver is associated with a rate indication message indicating a highest data rate;  
and

transmitting [[a]] the rate indication message if the first data transmission was not successfully received at the first receiver, wherein the rate indication message includes a data rate based on a channel condition measurement at the first receiver; and

receiving a second data transmission at a second data rate, wherein the second data rate is based on the rate indication message.

**12. (currently amended)** The method of claim 11 comprising the additional step of: storing the received first data transmission if the first data transmission was not successfully received at the first receiver.

**13. (original)** The method of claim 12 comprising the additional step of: soft combining the stored received first data transmission with the received second data transmission.

14-20. (Canceled)

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 1-10-2007 was filed after the mailing date of the final rejection on 11/14/06. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Response to Arguments***

3. Applicant's arguments, see after final remarks pages 2-9, filed 12/19/06, with respect to claims have been fully considered and are persuasive. The rejections of claims 1-3,6,7, and 11-13 have been withdrawn.

#### ***Allowable Subject Matter***

4. Claims 1-3,6,7,11-13 are allowed.

***Conclusion***

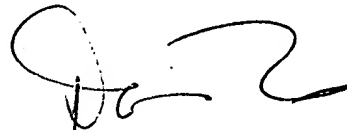
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The examiner can normally be reached on 9:00 AM- 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*INM*

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1-11-07



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